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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application of: | ) |
| | ) |
| Tarbotton et al. | ) Art Unit: 2137 |
| | ) |
| Application No. 10/028,651 | ) Examiner: Pyzocha, Michael J. |
| | ) |
| Filed: 12/20/2001 | ) Date: 10/23/2006 |
| | ) |
| For: SYSTEM, METHOD AND | ) |
| COMPUTER PROGRAM PRODUCT | ) |
| FOR PRECLUDING WRITES TO | ) |
| CRITICAL FILES | ) |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

### ATTENTION: Board of Patent Appeals and Interferences

### REPLY BRIEF (37 C.F.R. § 41.37)

This Reply Brief is being filed within two (2) months of the mailing of the Examiner's Answer mailed on 08/23/2006.

Following is an issue-by-issue reply to the Examiner's Answer.

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-1-

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| Date: | October 23, 2006 | Phone Number | Fax Number |
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| To: | Board of Patent Appeals | | (571) 273-8300 |
| From: | Kevin J. Zilka | | |

Docket No.: NAI1P055/01.228.01          **App. No: 10/028,651**

Total Number of Pages Being Transmitted, Including Cover Sheet: 16

**Message:**

Please deliver to the Board of Patent Appeals.

Thank you,

Kevin J. Zilka

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October 23, 2006

Issue # 1:

The Examiner has rejected Claims 1-7, 9-10, 12-20, 22-23, 25-28, and 30 under 35 U.S.C. 103(a) as being unpatentable over "Q222193- Description of the Windows 2000 Windows File Protection Feature" (hereinafter WFP), in view of Rickey et al. (U.S. Publication No. 2002/0166059).

*Group #1: Claims 1-2, 4-7, 13-15, 17-20, and 26-27*

With respect to the current grouping, and specifically appellant's claimed technique "wherein the factors are altered based on the monitoring of the requests to write to the files on the computer," the Examiner has responded to appellant's arguments, in the Office Action mailed 1/12/06, by stating that "when WFP is monitoring for modifications to files the write request is part of the change and therefore part of the monitoring." First, appellant respectfully asserts that what is claimed is "factors [that] are altered based on the monitoring of the requests" (emphasis added), and not merely monitoring write requests, as the Examiner argued. Appellant emphasizes that WFP teaches that the "Windows File Protection feature is implemented when it is notified that a file in a protected folder is modified" and that a "second protection mechanism [is]...the System File Checker tool [that] scans all protected files to ensure they are not modified." Thus, WFP only discloses a situation where it is determined if a file has already been modified, and not altering factors "based on the monitoring of the requests" (emphasis added), as claimed by appellant. Furthermore, WFP discloses restoring a file to a correct Microsoft version, but not altering factors associated with the computer, in the manner claimed by appellant.

In the Examiner's Answer mailed 08/23/2006, the Examiner has argued that "[a]s described on page 4 of appellant's specification, 'the factors are selected from the group consisting of critical files, critical file locations, and trusted applications'" and that therefore "the critical files of WFP are the claimed factors." Further, the Examiner has argued that "since files are factors, as disclosed in appellant's specification, changing a modified file to a correct version is altering that factor." However, appellant respectfully points out that what is claimed is a technique "wherein the factors are altered based on the monitoring of the requests to write to the files on the computer" and the factors may include, but are not necessarily limited to "the group consisting of

-2-

critical files, critical file locations, and trusted applications," as the Examiner's contends. Thus, despite the Examiner's arguments, WFP clearly fails to meet appellant's claimed "factors [that] are altered based on the monitoring of the requests" (emphasis added), as claimed.

Further, in the Examiner's Answer mailed 08/23/2006, the Examiner has argued that "WFP monitors a file system to determine when a file has been modified, and whenever a file is modified a write occurs in the system and with every write call exists a write request, therefore, WFP monitors write requests." Appellant respectfully disagrees with the Examiner's argument and asserts that the mere disclosure of notification when a file has been modified simply fails to even suggest that WFP monitors "requests to write to the files," as claimed by appellant. Specifically, WFP discloses that "it is notified that a file in a protected folder is modified" (bottom of Page 1 - emphasis added). However, the mere disclosure by WFP of being notified when a file is modified simply fails to even suggest that "factors are altered based on the monitoring of the requests to write to the files on the computer" (emphasis added), as claimed by appellant. Clearly, WFP's notification when a file is modified fails to meet appellant's claimed "monitoring of the requests to write to the files," in the manner as claimed by appellant.

Second, appellant respectfully disagrees with the Examiner's argument that "each time a file [is] written (i.e. modified) a write request occurs" such that "the write request [which is] part of the change… [is] therefore part of the monitoring," as noted in the Office Action mailed 1/12/06. Specifically, WFP only teaches that the "Windows File Protection feature is implemented when it is notified that a file in a protected folder is modified" and that "[o]nce the notification is received, the Windows File Protection feature determines which file was changed" (emphasis added). Thus, in WFP, the monitoring is performed with respect to when an actual modification has already been made, and not to when a request to write to the files on the computer is made, in the manner claimed by appellant. To emphasize, appellant claims altering factors based on a request, and not merely a file modification that has already been made, as in WFP. As such, appellant's claim language allows for the "writes to the files on the computer" to be prevented such that the modification is not made, in the manner claimed.

In the Examiner's Answer mailed 08/23/2006, the Examiner has argued that "when a modification to a file protected by WFP is made that places it in an incorrect version, it is